

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANDREW A. HERZOG,

)

8:09CV265

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Petitioner,

)

)

v.

)

**MEMORANDUM
AND ORDER**

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PAUL SCHAUB, TOM SOONTAG,
and CHEYENNE COUNTY,

)

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Respondents.

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This matter is before the court on Petitioner's Motion for Reconsideration, which the court liberally construes as a Motion for Relief Under Federal Rule of Civil Procedure 60(b). (Filing No. [18](#).) Along with his Motion, Petitioner has filed a Brief in Support. (Filing No. [19](#).)

On February 25, 2010, the court dismissed Petitioner's Writ of Habeas Corpus and entered Judgment against him. (Filing Nos. [12](#) and [13](#).) Liberally construed, Petitioner seeks relief from the court's Judgment pursuant to [Fed. R. Civ. Pro. 60\(b\)\(6\)](#). (Filing No. [18](#).) [Rule 60\(b\)\(6\)](#) "grants federal courts broad authority to relieve a party from a final judgment 'upon such terms as are just,' provided that the motion is made within a reasonable time and is not premised on one of the grounds for relief enumerated in clauses (b)(1) through (b)(5)." [Liljeberg v. Health Serv. Acquisition Corp.](#), 486 U.S. 847, 863 (1988). However "[r]elief is available under Rule 60(b)(6) only where exceptional circumstances have denied the moving party a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress." [Harley v. Zoesch](#), 413 F.3d 866, 871 (8th Cir. 2005).

The court has carefully reviewed Petitioner's Motion and Brief. Petitioner has not set forth any "exceptional circumstances" that prevented him from fully litigating

his claims or receiving adequate redress. Accordingly, Petitioner's Motion for Reconsideration, liberally construed as a Motion for Relief Under Rule 60(b), is denied.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Reconsideration (filing no. [18](#)), liberally construed as a Motion for Relief Under Rule 60(b), is denied.

DATED this 13th day of April, 2012.

BY THE COURT

s/ Joseph F. Bataillon
United States District Judge

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